

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

ORDER
04-CR-189A

RONNIE FUNDERBURK,

Defendant.

Defendant Ronnie Funderburk filed an omnibus motion on July 15, 2005, requesting, inter alia, the suppression of evidence obtained via certain electronic eavesdropping warrants and the suppression of statements defendant allegedly made to law enforcement officers. On October 19, 2005, the case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. § 636(b)(1)(A). On February 24, 2006, Magistrate Judge Foschio filed a Report and Recommendation, recommending that defendant's motion to suppress evidence obtained via certain electronic eavesdropping warrants be denied. On September 18, 2006, Magistrate Judge Foschio filed an Amended Report and Recommendation, recommending that defendant's motion to suppress his statements be denied.

Defendant filed objections to both Reports and Recommendations on October 23, 2006, and the government filed a response thereto. Oral argument on the objections was held on January 25, 2007.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Reports and Recommendations to which objections have been made. Upon a de novo review of the Reports and Recommendations, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of both Reports and Recommendations.

Accordingly, for the reasons set forth in Magistrate Judge Foschio's February 24, 2006 Report and Recommendation and September 18, 2006 Amended Report and Recommendation, the Court denies: (1) defendant's motion to suppress evidence obtained via certain electronic eavesdropping warrants; and (2) defendant's motion to suppress statements defendant allegedly made to law enforcement officers.

Counsel for all the parties in this case shall appear on February 27, 2007 at 9:00 a.m. for a meeting to set a trial date.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: February 22, 2007